

1 **II. FACTS**

2 The Committee is an independent-expenditure-only political committee that registered
3 with the Commission in June 2016.¹ In its October 2016 Quarterly Report, the Committee
4 disclosed on Schedule E that on September 17, it disseminated an IE supporting U.S. Senate
5 candidate Robert L. Maness in the Louisiana general election totaling \$108,662.² That Report
6 also disclosed another IE supporting Maness on September 19 totaling \$200,000.³ In its 12-Day
7 Pre-General Report, the Committee disclosed disseminating an IE on October 12 totaling
8 \$280,000 and another on October 16 totaling \$16,000, both also supporting Maness.⁴

9 On February 9, 2017, RAD sent the Committee Requests for Additional Information
10 (“RFAIs”) regarding both reports for failing to file corresponding 48-Hour Reports disclosing the
11 IEs noted above. In response, the Committee filed late 48-Hour Reports on February 15 and
12 March 14, 2017.

13 **III. LEGAL ANALYSIS**

14 Political committees registered with the Commission must file periodic reports disclosing
15 their receipts and disbursements.⁵ An independent expenditure is an expenditure that expressly
16 advocates the election or defeat of a clearly identified federal candidate, and is not made in
17 concert or cooperation with or at the request or suggestion of such candidate, the candidate’s

¹ See Statement of Organization, June 8, 2016. In an amended Statement of Organization filed on July 6, 2016, Warrior PAC clarified its intention to be organized as an independent-expenditure-only committee by attaching a miscellaneous text form with language from the decision in *SpeechNow v. FEC*, 599 F.3d 686 (D.C. Cir. 2010). The Committee has submitted a termination request, and RAD informed the Committee that it may not terminate until the instant matter is resolved.

² See October 2016 Quarterly Report (Oct. 14, 2016).

³ See *id.*

⁴ See 12-Day Pre-General Report (Oct. 25, 2016).

⁵ 52 U.S.C. § 30104(a).

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1 authorized political committee, or their agents.⁶ In addition to a political committee's regular
2 reporting obligations, the Act further requires additional independent expenditure reporting
3 within 24 hours of the expenditure when a person makes or contracts to make independent
4 expenditures aggregating \$1,000 or more after the 20th day but more than 24 hours before the
5 date of an election.⁷

6 Further, a political committee that makes or contracts to make independent expenditures
7 aggregating \$10,000 or more outside of that 20-day period, up to and including the 20th day,
8 must file a report describing those expenditures within 48 hours.⁸ These reports must be filed
9 within 48 hours "following the date on which a communication that constitutes an independent
10 expenditure is publicly distributed or otherwise publicly disseminated."⁹

11 In 2016, the 20-day period for the Louisiana general election began on October 20;¹⁰
12 thus, an independent expenditure made by a political committee before that date aggregating
13 \$10,000 or more needed to be additionally disclosed in a 48-Hour Report.

14 **Table One: Untimely Filed 48-Hour Reports**

| Report where Expenditure disclosed on Schedule E | Dates of Independent Expenditures | Number of Reports that were untimely filed (after RFAI) | Number of days late | Cumulative Amount |
|---|--|--|----------------------------|--------------------------|
| 2016 October Quarterly Report | 9/17/16 9/19/16 | 2 | 177 175 | \$308,662.40 |
| 2016 12 Day Pre-General Report | 10/12/16 10/16/16 | 2 | 125 121 | \$296,000 |
| Totals | | 4 | | \$604,662.40 |

⁶ 52 U.S.C. § 30101(17); *see also* 11 C.F.R. § 100.22(a), (b) (definition of "expressly advocating").

⁷ *See* 52 U.S.C. § 30104(g); 11 C.F.R. § 109.10(d).

⁸ 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2).

⁹ 11 C.F.R. § 104.4(b), (c).

¹⁰ *See* https://transition.fec.gov/info/charts_ie_dates_2016.shtml (Commission's archive of IE reporting dates).

1 In communications with RAD and in response to the Referral, the Committee's treasurer
2 said that he found the chart on the Commission's website listing the IE reporting dates confusing,
3 and he believed that October 19, 2016, the date noted in the chart under "Independent
4 Expenditures 48-Hour Notice Period," indicated the start of the 48-Hour reporting period, not its
5 end.¹¹ The RAD analyst referred the treasurer to the Commission's regulations, which may also
6 be accessed from the IE reporting page on the Commission's website.

7 Respondent, however, does not dispute that the Committee failed to timely file the
8 48-Hour Reports. Accordingly, we recommend that the Commission find reason to believe that
9 Warrior PAC and Robert San Luis in his official capacity as treasurer violated 52 U.S.C.
10 § 30104(g).

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¹¹ See Referral at 2; Resp. at 1. For 2018, the chart on the Commission's website page for IE reporting specifically states, "Independent Expenditures 48-Hour Period Ends On."

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V. RECOMMENDATIONS

1. Open a Matter Under Review with respect to RR 17L-43;
2. Find reason to believe that Warrior PAC and Robert San Luis in his official capacity as treasurer violated 52 U.S.C. § 30104(g)(2);
3. Enter into conciliation with Warrior PAC and Robert San Luis in his official capacity as treasurer, prior to a finding of probable cause to believe;
4. Approve the attached Factual and Legal Analysis;
5. Approve the attached conciliation agreement; and
6. Approve the appropriate letter.

Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Associate General Counsel for Enforcement

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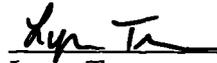
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Date



Stephen Gura

Deputy Associate General Counsel
for Enforcement



Lynn Tran

Assistant General Counsel



Elena Paoli

Attorney

Attachments:

1. Factual and Legal Analysis

10047442001

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENTS: Warrior PAC and Robert San Luis MUR ____
4 in his official capacity as treasurer
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6

7 **I. INTRODUCTION**
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9 This matter was generated based on information ascertained by the Federal Election
10 Commission (“Commission”) in the normal course of carrying out its supervisory
11 responsibilities, *see* 52 U.S.C. § 30109(a)(2). The Commission’s Reports Analysis Division
12 (“RAD”) referred Warrior PAC and Robert San Luis in his official capacity as treasurer
13 (“Committee”) to the Office of General Counsel for failing to file four 48-Hour Reports of
14 Independent Expenditures (“IEs”) during the 2016 election cycle.¹ For the reasons set forth
15 below, the Commission finds reason to believe that the Committee violated 52 U.S.C.
16 § 30104(g).

17 **II. FACTS**

18 The Committee is an independent-expenditure-only political committee that registered
19 with the Commission in June 2016.² In its October 2016 Quarterly Report, the Committee
20 disclosed on Schedule E that on September 17, it disseminated an IE supporting U.S. Senate
21 candidate Robert L. Maness in the Louisiana general election totaling \$108,662.40.³ That

¹ RAD Referral 17L-43 (Warrior PAC (Nov. 13, 2017) (“Referral”), incorporated herein by reference.

² *See* Statement of Organization, June 8, 2016. In an amended Statement of Organization filed on July 6, 2016, Warrior PAC clarified its intention to be organized as an independent-expenditure-only committee by attaching a miscellaneous text form with language from the decision in *SpeechNow v. FEC*, 599 F.3d 686 (D.C. Cir. 2010). The Committee has submitted a termination request, and RAD informed the Committee that it may not terminate until the instant matter is resolved.

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3 \$280,000 and another on October 16 totaling \$16,000, both also supporting Maness.⁵

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5 (“RFAs”) regarding both reports for failing to file corresponding 48-Hour Reports disclosing the
6 IEs noted above. In response, the Committee filed late 48-Hour Reports on February 15 and
7 March 14, 2017.

8 III. LEGAL ANALYSIS

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10 their receipts and disbursements.⁶ An independent expenditure is an expenditure that expressly
11 advocates the election or defeat of a clearly identified federal candidate, and is not made in
12 concert or cooperation with or at the request or suggestion of such candidate, the candidate’s
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16 expenditures aggregating \$1,000 or more after the 20th day but more than 24 hours before the
17 date of an election.⁸

⁴ See *id.*

⁵ See 12-Day Pre-General Report (Oct. 25, 2016).

⁶ 52 U.S.C. § 30104(a).

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2 be accessed from the IE reporting page on the Commission's website.

3 Respondent, however, does not dispute that the Committee failed to timely file the
4 48-Hour Reports. Therefore, there is reason to believe that Warrior PAC and Robert San Luis in
5 his official capacity as treasurer violated 52 U.S.C. § 30104(g).

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